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## THE EARLY HISTORY OF THE TRADITION OF THE CONSTITUTION

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In Aristotle's treatise on the constitution of Athens we read of the great lawgiver, Solon, that "when he had completed his organization of the constitution . . . he found himself beset by people coming to him and harassing him concerning his laws, criticizing here and questioning there, till, as he wished neither to alter what he had decided on, nor yet to remain an object of ill-will to everyone by remaining at Athens, he set off on a journey to Egypt, . . . giving out that he would not return for ten years."<sup>1</sup> To the student of American history recalling the comparison with "that old constitution-monger Solon,"<sup>2</sup> so often flung at the framers of the Constitution by the anti-Federalists, the hasty exodus from Athens for a decade after the attempt "to save the country and establish the best laws that were possible," is full of interest. The actual result of the Solonic experiment in political science we also gather from Aristotle, for "in the fifth year after Solon's government they were unable to elect an archon on account of the dissensions," and again, four years later they elected no archon for the same reason.<sup>3</sup>

The fathers of this country tried no such experiment in dogmatic and absenteeism government. The framers, emphatically unlike Solon, did not feel that "there was no call (for them) . . . to expound the laws personally, but that everyone should obey them just as they were written."<sup>4</sup> Just at present

<sup>1</sup> Aristotle on the Athenian Constitution, tr. Kenyon (1912), ch. 11.

<sup>2</sup> Cf. Jonathan Jackson (Pseud., "A Native of Boston"), *Thoughts on the Political Situation of the United States of America* (Boston, 1788).

<sup>3</sup> Aristotle, *Op. cit.*, ch. 13.

<sup>4</sup> *Ibid.*, ch. 11.

the historians are largely at odds in their appraisal of the framers and their work. But since it is the people's tradition and not the historian's tradition of the Constitution which will occupy our attention, these conflicting views as to the democratic or the reactionary elements, as to the pure political theory or the economic determinism in the Constitution do not concern us here. For the purposes of this paper it is not important to determine whether we must accept the old "inspiration theory" as to the origin of the Constitution, or whether we must regard the framers as merely the shrewd and conscious spokesmen of great consolidated economic groups, or whether, simply taking a rational cognizance of that great synthesis of flesh and spirit in the motive force of human activity, we agree with Bluntschli's remark that "in the great dangers and crises of national life it becomes clear to men that the state is something better and higher than a mutual assurance society."<sup>5</sup> Here the one significant fact is that the framers, far from leaving the Americans to work out their own salvation under the new Constitution, and far from shunning the defence of their handiwork, were the able exponents and the active propagandists for the Constitution—not merely its authors but also its apostles. They and their Federalist hosts were engaged during the first decade not simply in making constitutional history, but in seeing, or at least in preaching, that national vision without which "the people perish." They, though, as we shall see later, by no means they alone, were busy in the fostering and dissemination of that tradition as to the essentially popular origin and radically democratic, almost *viva voce*, mode of adoption of their own Constitution, which has long since been abandoned by critical historians of all schools, and they were zealously sowing the seeds of a universal affection for the Constitution based upon a profound faith in its wisdom and a semi-mystical belief in its potentialities. "For one reason or another," writes Professor Goodnow, "the people of the United States came soon to regard with an almost superstitious reverence the document into which this

<sup>5</sup> Bluntschli, *Theory of the State*, 290, quoted by F. B. Vrooman, *The New Politics*, 180.

scheme of government was incorporated, and many considered . . . that scheme . . . to be the last word which can be said as to the proper form of government—a form believed to be suited to all times and conditions.”<sup>6</sup> Now if “it seems a safe guess to say that not more than five per cent of the population in general, or in round numbers, 160,000 voters, expressed an opinion one way or another on the Constitution . . . and we have 51,000 dissenting voters against ratification,”<sup>7</sup> then, even though we concede that as a rule delegates to the state ratification conventions “registered the public sentiment in each State on the question of ratifying the federal Constitution,”<sup>8</sup> it will repay us to give more than a cursory glance at the source of “that spirit of extreme and blind laudation of the Constitution, which, beginning at the adoption of that instrument, lasted so long”<sup>9</sup> and which held the people enchanted in awesome admiration of “the work of their hands.”

Many writers have remarked with what rapidity the tradition of the popular origin and extraordinary properties of the Constitution grew at the very threshold of genuinely national existence, but practically the only one who has thought this phenomenon worthy of more than passing notice, Von Holst, presents either peevishly or explosively his resentful picture of a gigantic bi-partisan conspiracy to bring about “the canonization of the Constitution.”<sup>10</sup> Our search for the origins of the early popular cult of the Constitution will avoid both dogmatism and choler by a direct examination of the ideas and the actions of the leaders who framed and the people who hallowed and transmitted the tradition. For, as Mr. Oliver, the brilliant though avowedly biased biographer of Hamilton maintains, “If we choose to look we can see the founders of the tradition at work like bees in a

<sup>6</sup> Goodnow, *The Constitution and Social Progress*, 9-10.

<sup>7</sup> Beard, *Economic Interpretation of the Constitution of the United States*, 250.

<sup>8</sup> O. G. Libby, *Geographical Distribution of the Vote of the Thirteen States on the Federal Constitution* (Bulletin of University of Wisconsin, vol. 00), 70.

<sup>9</sup> Willoughby, *The Supreme Court of the United States* (Johns Hopkins Studies, extra vol. 7), 113.

<sup>10</sup> See Von Holst's chapter on “The Worship of the Constitution and its Real Character,” *Constitutional History of the United States*, vol. 1, ch. II.

glass hive."<sup>11</sup> Nor is the task of the would-be historian of a tradition and of a sentiment an easy one, for the growth of a tradition is subtle and elusive and the manifestations of a sentiment are evanescent and may be deceptive. Not merely letters, newspapers, and pamphlets, but even less usually accepted paraphernalia of investigation, such as school books, orations and even sermons have been utilized, so that we may read the times with a "contemporaneous eye." And the span covered has been brief—with few exceptions, only the reign of the Federalist party, that period when nationalism first began to triumph over the sectionalism of thirteen unruly States.

It is conceded by most American historians that "the Federalist party of 1787–88 was not the same as the Federalists of 1791," and that "after the completion of the ratification of the Constitution . . . anti-Federalism (proper) died because its *raison d'être* was gone."<sup>12</sup> The new anti-Federalist party, reconciled to the Constitution as a fact,<sup>13</sup> now contained those who were determined to give as particularistic as possible a construction and interpretation to that instrument. But this individualism underlying the early "Jeffersonian metapolitics" has often been misconstrued as destructive from the first of respect

<sup>11</sup> F. S. Oliver, *Alexander Hamilton, An essay on American union*, 172.

<sup>12</sup> Bassett, *Federalist System (American Nation)*, 42. See also Gordy, *History of Political Parties in the United States* (2d ed., i, 92).

<sup>13</sup> e.g., "This day (February 8, 1788) . . . the news arrived in this town (Newburyport) that the federal Constitution was yesterday adopted and ratified . . . I have not been pleased with this system, and my acquaintances have long since branded me with the name of an anti-Federalist. But I am now converted though not convinced. I think it is my duty to submit without murmuring against what is not to be helped. In our government, opposition to the acts of the majority of the people is rebellion to all intents and purposes; and I should think a man who would now endeavor to excite commotions against this plan, as no better than an insurgent who took arms last winter against the courts of justice." (Diary of John Quincy Adams [ed. C. F. Adams, Boston, 1903] 94.)

Charles Pinckney to King (June 21, 1788) from Charleston, S. C.: "Most of the members who opposed it have declared that they will exert themselves in its support, and some districts, that were averse to it, are altogether reconciled to its adoption. Indeed, if we were allowed to pass installment and valuation laws as heretofore an anti-Federalist would be a *rara avis* in this State." King, *Life and Corr. of Rufus King*, i, 336; see also, *ibid.*, i, 319–20, 338.

and admiration for the Constitution as a political document. "I have often imagined," writes an ardent exponent of the new nationalism, "a reversal of the work of the two parties. I have tried to think of Jefferson as the first President of the United States. Eight years of this spirit, following the adoption of the Constitution would have made union . . . impossible. The Constitution would not have survived as long as the Articles of Confederation, and these two charters of the American Experiment would have found their way to some historic library in Europe belonging to a nation sufficiently consolidated and sufficiently strong to have preyed upon the struggling and jealous and not too noble peoples of thirteen States. The predictions of Europe would have come true."<sup>14</sup>

Now what Mr. Vrooman says of the consequence of a practical application of the Jeffersonian theories to the actual working out of the new constitutional system is probably true, but in the present connection it should be noted that no Federalist leader was more generous in his praises of the Constitution than Jefferson himself. According to Jefferson, not the Constitution, but its interpreters were the source of all evil. Jefferson simply charged the Federalists with a wilful maladjustment and maladministration of the delicate constitutional mechanism, and with none too much delicacy intimated that therein they were greatly aided by the presence in their midst of the overwhelming personality of Washington, with the removal of which the Federal prestige would vanish, the undue importance of the executive department would disappear and the Constitution come into its own for the first time in its hitherto abnormal and inharmonious career. His attitude at ratification is not as obscure as is usually maintained. At the time of the Convention, while he saw "some seeds of danger which might have been kept out of the sight of the framers by a consciousness of their own honesty and a presumption that all succeeding rulers would be as honest as themselves,"<sup>15</sup> and though at first he "wished that when nine States should have accepted the Constitution, so as to ensure us what

<sup>14</sup> F. B. Vrooman, *Op. cit.*, 213.

<sup>15</sup> Jefferson, *Writings* (ed. Ford), iv, 484-5.

is good in it, the other four might hold off till the want of a bill of rights might at least be supplied,"<sup>16</sup> he at length became "convinced that the plan of Massachusetts is the best. That is, to accept and to amend afterwards. . . . *It has therefore my hearty prayers and I wait with anxiety for news of the votes of Maryland, South Carolina and Virginia.*"<sup>17</sup>

In June of the very year of the Kentucky Resolutions we have a very definite expression of his insistence on the idea that the Federalists were not simply the enemies of democracy but the foes and distorters of the Constitution itself. He writes to the fiery secessionist John Taylor, disapproving of the latter's suggestion, or supposed suggestion, that in the light of current events, "it was not unwise to estimate the separate mass of Virginia and North Carolina, with a view to their separate existence" in these no uncertain terms:

"The Republicans, through every part of the Union, say, that it was the irresistible influence and popularity of General Washington played off by the cunning of Hamilton, which turned the government over to anti-Republican hands, or turned Republicans chosen by the people into anti-Republicans. He delivered it over to his successor in this State, and very untoward events since, improved with great artifice, have produced in the public mind the impressions we see. But still I repeat it, this is not the natural state. Time alone would bring round an order of things more correspondent to the sentiments of our constituents. . . . Perhaps . . . party division is necessary to induce each to watch and debate to the people the proceedings of the other. But if on a temporary superiority of the one party, the other is to resort to a scission of the Union, no federal government can ever exist. . . . A little patience, and we shall see the reign of witches (i.e., the New England States then in control) pass over, and the people recovering their true sight, restoring their government to its true principles."<sup>18</sup>

<sup>16</sup> Ibid., v, 25.

<sup>17</sup> Loc. cit.

<sup>18</sup> Ibid, vii, 263-5, *passim*.

The alien and sedition laws were to Jefferson "merely an experiment on the American mind to see how far it will bear an avowed violation of the Constitution,"<sup>19</sup> and the Kentucky Resolutions simply a refusal "to surrender the form of government we have chosen."

I have quoted Jefferson at length because his attitude was that which was typical in the first place of the thinking anti-Federalist Republicans, and which, filtering down through the lower strata of his party, gave ultimately to the masses a picture of the Constitution as a charter of liberties torn from them by the crafty Federalists, but capable of recovery and of restoration from an instrument of oppression, tyranny and aristocracy to its pristine vigor as the bulwark of democracy.

That the Federalists and anti-Federalists were thus really only two denominations of the same cult of the Constitution was not left us to point out. As early as 1800 Charles Pettit, himself a staunch Federalist advocate of the Constitution, in a conciliatory pamphlet entitled *An Impartial Review of the Rise and Progress of the Controversy Between the Parties Known by the Names of Federalists and Republicans*, said: "It cannot be necessary to enumerate the various reproachful epithets which each of the parties in their warmth have bestowed on the other; they are numerous, and most of them intended to irritate and provoke; in this respect they have seldom failed of success and are perhaps nearly equally balanced." But, he concludes, "both parties profess an attachment to and a reverence for, the Constitution as their guide, but from the principles and causes I have heretofore suggested, they frequently differ in opinion as to the modes and measures manifesting their attachment and veneration, and reciprocally charge each other with designs to warp, subvert and destroy the Constitution itself."<sup>20</sup>

Knowing the views of the Constitution of those political "atomists, those professed foes of all political activity, whose leader had felt in writing "on the state of Virginia," that "they should look forward to a time, and that not a distant one, when a cor-

<sup>19</sup> Ibid, vii, 283; see also his letter to Peregrine Fitzhugh, *ibid.*, vii, 210.

<sup>20</sup> *Magazine of History with Notes and Queries* (Extra No. 23, 1913), 17.



ruption in this, as in the country from which we derive our origin, will have seized the heads of government and be spread by them through the body of the people; when they will purchase the voices of the people and make them pay the price;”<sup>21</sup> it will not be difficult to gauge the sentiments concerning the Constitution of those who, with a less gloomy prophecy for the future, proclaimed throughout the land the already-realized blessings of the new Constitution under their leadership and guidance.

But at this point we must digress for a moment to remark the adoption by this constitutional party of a *nom de guerre* the importance of which cannot be over-estimated. It would be hard to conceive of a more deft and sudden abduction of a valuable verbal party asset, a more skilful appropriation of the “enemy’s thunder,” than that by which somewhere during the years 1787–88, the metamorphosis of the meaning of the word “Federal” in the mouths and under the pens of the Nationalists of America was effected. This is not the place for a detailed study of the process by which a word clearly connoting decentralization, state supremacy and particularism in current politics mysteriously emerged from the Federal Convention as the designation of a party devoted to the idea of consolidation and delocalization. Without fixing the responsibility for this clearly conscious philological ambushade into which the American masses fell, its significance may be here noted. This is not stressing too much a mere piece of party nomenclature. Thomas Cooper, the learned South Carolinian nullifier, did not exaggerate the advantage which the Nationalists derived from their daring political manoeuvre, both in the struggle for ratification and after the adoption of the constitution, when he wrote that “the adherents of Colonel Hamilton and the consolidation party gradually assumed the denomination of Federalists, hitherto applied with great propriety to their opponents: and the real ‘Federalists’ . . . have been at various times since, branded with the appellation of anti-Federalists, Jacobins, Republicans,

<sup>21</sup> Jefferson, *Op. cit.* iii, 225.

Democrats, and Radicals.”<sup>22</sup> The Nationalists’ annexation of their opponents’ lawful and hitherto universally accepted denomination befogged the issue in the minds of those who voted and those who celebrated, for few of the former and far fewer of the latter were prone to spend their days in the casuistries and subtleties of political economists.<sup>23</sup> But what is more, it put the anti-Constitutionalists and thereafter the opponents of the administration on the defensive as disgruntled and dangerous dissenters and agitators. It cast heavily upon the anti-Federalists the burden of proof, of merely the defects of the Constitution, but the defects of its great framers. The stigma of the anti-Federalist of 1787 clung to the anti-Federalist of 1791, even after the latter’s more or less graceful acceptance of defeat—the stigma of being an “anti,” the weakness of mere negation, the brand of heterodoxy, the mark of political atheism.

Many years later the younger Wolcott accused Jefferson of accompanying his original opposition to the Constitution “with such circumstances of doubt and equivocation, as exempted him from the then unpopular imputations of being an anti-Federalist.”<sup>24</sup> And what Federalism had come by this time to imply is shown by Judge Hopkinson, who writing to Wolcott from amid

<sup>22</sup> “Of the fraternity of politicians thus variously designated by the ingenious manoeuvring of the federal leaders, who well knew the force and value of a nickname, the writer of these pages requests to be considered as a member.” (Thomas Cooper, *Declaration of Independence*, An essay on consolidation, 2d ed., Charleston, S. C., 1830 [?], 9).

<sup>23</sup> How violent a wrench was given by the Federalists to the usual and still accepted connotation of “Federal” is strikingly shown in the recent organization in the Union of South Africa of a “Federal League” to combat the centralizing tendencies of the Union, in the scheme of government of which the provinces have been greatly reduced in importance. The four objects of the “Federal League of South Africa” are, according to section 2 of its constitution: (a) To secure by every constitutional means the preservation of such federal principles as exist in the act of union. (b) To enlarge the powers and responsibilities of the provincial councils, and to secure the utmost possible delegation of administrative control to the provinces. (c) To obtain for the respective provinces the largest possible measure of local control over all matters of domestic concern. (d) Generally to secure for the whole of South Africa those features of government and administration which are best exemplified by the federal system.” (*Cape Argus*, South Africa, July 11, 1913.)

<sup>24</sup> Gibbs, *Administration of Washington and Adams*, i, 121.

the din and clatter of "two or three hundred merchants" in a New York tavern, complains that "the Federal spirit of this city is not worth a farthing. It is entirely unlike that which animates us in Philadelphia, and although as a Philadelphian I am proud of our preeminence, as an American I am mortified and distressed to find the difference. The people here . . . seem plunged in the mire of commercial avarice . . . , they seem to consider themselves as having no kind of connection with the affairs of the nation and no interest in it."<sup>25</sup> It is not strange, then, that Noah Webster, who was quite as ready as his more illustrious predecessor to make lexicography the handmaid of politics, defined Federalist in the first edition of his dictionary (1806) as "a friend to the Constitution of the United States."

We now turn to what I venture to call the ritual of the worship of the Constitution, to the various manifestations of the cult in the national life. During the ratification campaign in Connecticut one of the newspapers pithily observed that "the Americans in Europe have been remarked for loving their country and hating their governments."<sup>26</sup> It would be supererogatory to dwell on the state of affairs under the Articles of Confederation that provoked this epigram. The orthodox description of it begins with "chaos" and ends with "imbecility." As far back as 1782 Robert Morris had feared that "the want of obligatory and coercive clauses on the States will probably be productive of the most fatal consequences,"<sup>27</sup> and Morris' complaints over the hopeless inefficiency of the Articles of Confederation were multiplied and elaborated with much enthusiasm in the struggle over ratification.

"Hear the complaints of our farmers, whose unequal oppressive taxes in every part of the country amount to nearly the rent of their farms. Hear too the complaints of every class of public creditors. See the number of our bankruptcies. Look at the melancholy countenances of our mechanics, who now wan-

<sup>25</sup> *Ibid.*, ii, 49.

<sup>26</sup> *Conn. Gazette*, October 5, 1787; *Conn. Courant*, October 8, 1787.

<sup>27</sup> Wharton, *Dipl. Corr. Amer. Rev.*, v, 327.

der up and down our streets without employment. See our ships rotting in our harbors, or excluded from nearly all the ports in the world. Listen to the insults that are offered to the American name and character in every court of Europe. See order and honor everywhere prostrate in the dust, and religion, with all her attendant train of virtues, about to quit our continent forever. View these things, fellow-citizens, and then say that we do not require a new, a protecting and efficient federal government, if you can.”<sup>28</sup>

The readiness of the people for a change and a celebration is evident. “Our people,” writes Sullivan to King, “expect so much happiness from the doings of the Convention that they stand ready to adopt anything which may be offered.”<sup>29</sup> The feeling in Pennsylvania seems to have been the same. “An old Whig,” while attacking the Constitution for the lack of a bill of rights to offset the consolidating tendencies of the instrument, nevertheless finds that

“Experience seems to have convinced everyone, that the Articles of Confederation, under which congress has hitherto attempted to regulate the affairs of the United States, are insufficient for the purposes intended; that we are a ruined people unless some alteration can be effected. The public mind has therefore been raised to the highest pitch of expectation, and the evident need of relief from the many distresses, public and private, in which we are involved, have reduced us to such a state that we can hardly endure disappointment. Scarcely anything that could be proposed by the Convention, in this state of the people’s minds, would fail of being eagerly embraced. Like a person in the agonies of a violent disease, who is willing to swallow any medicine that gives the faintest hope of relief, the people stood ready to receive the new Constitution in almost any form in which it could be presented to them.”<sup>30</sup>

The popular rejoicing on the ratification has often been adequately described. The fact that perhaps only five per cent of

<sup>28</sup> *Conn. Gazette*, November 9, 1787.

<sup>29</sup> King, *Life and Corr. of Rufus King*, i, 259.

<sup>30</sup> Reprinted from *Penn. Indep. Gazetteer*, in *Mass. Gazette*, November 27, 1787.

the population of America had voted on the Constitution did not prevent the great majority of the other ninety-five per cent from celebrating what they conceived to be the genesis of a new America. The processions in Philadelphia, Boston, New York, Baltimore, Charleston, and New Haven, symbolizing, as James Wilson told the Philadelphia throngs, "a people free and enlightened, establishing and ratifying a system of government, which they have previously considered, examined and approved," were reproduced in miniature in every Federalist stronghold and there can be little doubt of their impression on the popular mind. "Public processions," said Wilson in his oration, "may be so planned and executed as to join both the properties of nature's rule. They may instruct and improve, while they entertain and please. . . . They may preserve the memory and engrave the importance of great political events. They may represent with peculiar felicity and force the operation and effect of great political truths." The force of Wilson's remark is shown in a letter written by a Philadelphian five days after the procession. "I have forgotten to inform you," he writes, "of two important facts that have occurred since the procession. First, it has been the happy means of uniting all our citizens in the government and second, it has made such an impression on the minds of our young people that "federal" and "union" have now become part of the household words of every family in the city."<sup>31</sup>

"The populace of Boston are regulated by their big men," writes an indignant protestant against the ratification by Massachusetts. "They have had a great fulsome parade at the ratification. The Convention ought to have adjourned from that seat of aristocratical influence. However, all these manoeuvres will not answer; they may serve to please children, but freemen will not so easily be gulled out of their liberties. Supposing they could procure a majority in thirteen conventions, would it be possible to put such a government into execution? . . .

<sup>31</sup> For all details of the Philadelphia procession, see F. Hopkinson, *An Account of the Grand Federal Procession* (Philadelphia, 1788). The letter quoted is from an appendix to this "Account."

I would not be surprised if the people from Georgia to New Hampshire would rise and crush the real authors and promoters of this system of arbitrary power.”<sup>32</sup> But instead of a great popular uprising against the new Constitution there came practically contemporaneously, as President Wilson has said, “an indiscriminate and almost blind worship of its principles. . . . The divine right of kings never ran a more prosperous course than did this unquestioned prerogative of the Constitution to receive universal homage.”<sup>33</sup> Those who courted the people and those who despised the people joined in praise and prayer for the new Constitution. Franklin, who was no sentimentalist, wrote in one of his last and happiest essays, “A Comparison of the Conduct of the Ancient Jews and of the anti-Federalists,”

“I beg I may not be understood to infer that our general convention was divinely inspired when it formed the Federal Constitution merely because that Constitution has been unreasonably and vehemently opposed; yet I must vow I have so much faith in the general government of the world by Providence, that I can hardly conceive a transaction of such momentous importance to the welfare of millions now existing, and to exist in the posterity of a great nation should be suffered to pass without being in some degree influenced, guided and governed by that omnipotent, omnipresent and beneficial Ruler, in whom all inferior spirits live, and move, and have their being.”<sup>34</sup>

And indeed to countless numbers of thinkers and unthinking alike the new Constitution became fraught with supernal wisdom and endowed with extraordinary intrinsic properties and potentialities. John Quincy Adams records that when the delegates from the Massachusetts ratification convention returned to Newburyport, “the mob huzza’d and one would have thought that every man from the adoption of the Constitution had acquired a sure expectancy of an independent fortune.”<sup>35</sup> Crusty old Maclay, who had feared that the Constitution would “turn out

<sup>32</sup> *Maryland Journal*, March 4, 1788.

<sup>33</sup> Woodrow Wilson, *Congressional Government* (15th ed.), 4.

<sup>34</sup> Franklin, *Works* (ed. Bigelow), ix, 439.

<sup>35</sup> *Diary of John Quincy Adams*, 94.

the vilest of all traps that was ever set to ensnare the freedom of an unsuspecting people,"<sup>36</sup> complained with some justification that "it has been usual with declamatory gentlemen, in their praises of the present government, by way of contrast, to paint the state of the country under the old (Continental) congress, as if neither wood grew nor water ran in America before the happy adoption of the new Constitution."<sup>37</sup> One can imagine how Maclay would have squirmed at the rhetoric of Richard Bland Lee, who, after portraying to the house the humiliation abroad, the commercial and financial chaos and the languor of agriculture at home before the adoption of the Constitution, declared:

"Such was the situation of the United States, and to remedy these evils was the Constitution made. Has it not produced the intended effects! . . . I will only mention the stimulus which agriculture has received. In travelling through the various parts of the United States, I find fields, a few years ago, waste and uncultivated, filled with inhabitants and covered with harvests; new habitations reared, contentment in every face, plenty on every board, confidence is restored, and every man is safe under his own vine and his own fig tree, and there is none to make him afraid. To produce this effect was the intention of the Constitution, . . . and it has succeeded."<sup>38</sup>

In 1808 Josiah Quincy in an eloquent speech in the house on The Suspension of the Embargo warned the country against the attribution of commercial prosperity to so human an institution as the Constitution.

"We are but a young nation. The United States are scarcely yet hardened into the bone of manhood. The whole period of our national existence has been nothing else than a continued series of prosperity. The miseries of the Revolutionary war were but as the pangs of parturition. The experience of that period was of a nature not to be very useful after our nation had acquired an individual form and a manly constitutional charac-

<sup>36</sup> Maclay, *Journal of William Maclay* (1890), 75-6.

<sup>37</sup> *Ibid*; 411.

<sup>38</sup> *Annals of Congress*, 3d Cong., 261-2.

ter. It is to be feared we have grown giddy with good fortune, attributing the greatness of our prosperity to our own wisdom, rather than to a course of events, and a guidance over which we had no influence. It is to be feared that we are now entering that school of adversity, the first blessing of which is to chastise an overweening conceit of ourselves. . . . ”<sup>39</sup>

Quincy's intimation that much of the popularity of the new government was in part really due to a wave of economic improvement that was merely coeval with and by no means wholly due to the constitutional system, had also been made more cynically almost twenty years before, when the new instrument was just going into effect, by Wolcott, who had ample opportunities for a thorough knowledge of both commercial and governmental affairs. "The affairs of this country," he wrote, "are so generally prosperous that *public management must be very bad to render the people very unhappy.*"<sup>40</sup> And in September of the same year (1790) he confided to his father that "we want men of political experience in congress, and to administer the government, but *when the general affairs of society are so prosperous, it must be a very bad administration which overturns a government.*"<sup>41</sup>

Just what were the economic results of the adoption of the Constitution is a question that must be left to the economists, but there can be little doubt that the recognition of the affiliations of the "propertyed" with the Constitutionalists was not in the least bashfully made, and that to the people the Constitution was the only guaranty of the safety of their property. A Massachusetts paper of 1787, an ardently Federalist organ, without the slightest diffidence, stated that "one of the first objects of the national government under the new Constitution, it is said, will be to provide funds for the payment of the national debt, and thereby to restore the credit of the United States, which has been so much impaired by the individual States. Every holder of a public security of any kind is, therefore, deeply

<sup>39</sup> Benton, *Abridgment of Debates of Congress*, iii, 700, quoted in part in Van Holst, *Op. cit.*, i, 75.

<sup>40</sup> Gibbs, *Op. cit.*, i, 46.

<sup>41</sup> *Ibid.*, i, 58.



interested in the cordial reception and speedy establishment of a vigorous continental government."<sup>42</sup> Likewise in the debate in the first congress on the duties on imports, Fisher Ames pointed out that "the present Constitution was dictated by commercial necessity more than any other cause" and urged that "the support of our agriculture, manufactures, navigation and fisheries are objects of very great moment."<sup>43</sup>

It is natural therefore that the Constitution should have a vital significance in its "critical period" not merely for the "moneyed few" but also for those among the great masses of the people who were not utterly propertyless, and that reverence for it should have become widespread at a very early period. Benjamin Goodhue, writing from Salem in 1795 of the attitude of the "Boston Jacobins" towards the Jay treaty, assures Wolcott that "although they may have received a degree of consolation, from being able to propagate the flame in New York and Philadelphia, yet their mortification must be great at not being able to get either the other great commercial towns in the State, or the agricultural interest to be infected with their mania. . . . You may depend on it that it will not be in the power, either of the inconsiderate or of the determinately vicious, to shake the great body, either of the merchants, or the yeomanry of our country, from their attachment or a reverence for their own government. They feel the sweets of peace."<sup>44</sup>

Fisher Ames' report is more significant. In July, 1795, he had been very despondent over the "inflammatory state" of Boston after the Jay treaty, fearing that "the prejudices and passions of the multitude are scarcely more deadly to public order than the theories of our philosophers."<sup>45</sup> But in the following summer after a trip from Dedham to Newport he wrote:

"I returned yesterday from a tour to Newport. . . . At Providence, the anti-Federal party is very inconsiderable, and I was happy to see in that State, symptoms of a just pride

<sup>42</sup> *Mass. Gazette*, September 4, 1787.

<sup>43</sup> P. W. Ames, *The speeches of Fisher Ames in Congress* (Boston, 1871), 9, 10.

<sup>44</sup> Gibbs, *Op. cit.*, i, 221; cf. Chauncey Goodrich's letter, *ibid.*, i, 88.

<sup>45</sup> *Ibid.*, i, 210.

in their present state, as contrasted with their former turbulence and the folly of Boston. I made conversation at all the country taverns and I think the yeomanry are yet right. They say the men in the government know best what to do. . . . As a speculative question the country folks do not pretend to understand it, their approbation is therefore not given; but their dislike of the proceedings in the seaports, is extorting it. Some opinions are general and well established; admiration of our Constitution and government, exultation in the happy effects manifested in the general prosperity, . . . and a steady resolution to support the government. . . . Now the contest lies between the mobbers and the government. . . ."<sup>46</sup>

But on the other hand it would be manifestly incorrect to ascribe too much of the popular enthusiasm for the Constitution to the mere coincidence of national economic advancement alone. The reverential utterances of Franklin quoted above certainly do not pertain solely to the material welfare of "the posterity of a great nation." There is indeed no more important factor in the creation of the tradition of the Constitution than the very strong belief existing in countless thousands, as in Franklin, that it was the manifest destiny of the American nation to stand under the new Constitution, not merely as the summum bonum of political science but thereby as the herald of a new world-cleansing era that would speedily disperse the "rank vapors of this sin-worn mould." James Wilson told the Pennsylvania Convention that ratified the Constitution that,

"Government, indeed, may yet be considered to be in its infancy; and with all its various modifications, it has hitherto been the result of force, fraud or accident. For after six thousand years since the creation of the world, America now presents the first instance of a people assembled to weigh deliverately and calmly, and to decide leisurely and peaceably, upon the form of government by which they will bind themselves and their posterity."<sup>47</sup>

<sup>46</sup> Ibid., i, 229-30.

<sup>47</sup> *N. Y. Daily Advertiser*, December 3, 1787.

David Ramsay, in his *History of the American Revolution* (1795), waxed still more eloquent over the new system, exclaiming,

"Citizens of the United States, you have a well-balanced Constitution established by general consent, which is an improvement on all republican forms of government heretofore established. It possesses the good qualities of monarchy but without its vices. The wisdom and stability of an aristocracy but without the insolence of hereditary masters. The freedom and independence of a popular assembly acquainted with the wants and wishes of the people, but without the capacity of doing those mischiefs which result from uncontrolled power in one assembly. . . . You have the experience of nearly six thousand years to point out the rocks on which former republics have been dashed to pieces."<sup>48</sup>

These two extracts by no means exaggerate the general feeling as to the significance not only for America but for the whole world of "that glorious fabric of Republicanism, the Federal Constitution." The impression seemed general that liberty and virtue, in their flight from the old world were making one last desperate stand on the western shore of the Atlantic. "We anticipate the praise," said the *Connecticut Gazette*, "with which the new federal government will be viewed by the friends of liberty and mankind in Europe. The philosophers will no longer consider a republic as an impracticable form of government; and pious men of all denominations will thank God for having provided in our Federal Constitution an ark, for the preservation of the justice and liberties of the world."<sup>49</sup> The New Yorkers were regaled by one of their journals with even a brighter vision of the American mission:

"The cloud which gathers in the European hemisphere serves as a foil, to set off the luster of the prospect that opens upon America. While the ancient establishments of the world are rent with civil discord and national contention, this infant empire deliberately examines her present wants and weaknesses, in order

<sup>48</sup> David Ramsay, *Hist. of the Amer. Rev.* (Dublin, 1795), 634.

<sup>49</sup> *Conn. Gazette*, November 2, 1787.

to provide for her future strength and glory. Thus the dotage of our parent continent is stained with wild ambition and phantastic pride, while the vigorous youth of the confederated states expands under the influence of reason and philosophy.”<sup>50</sup>

Every great national moment whether of joy or sorrow was made the vehicle of new laudation of the Constitution, and every orator sought to find in it some new manifestation of the national genius, and to impress upon the people its significance for the whole of humanity. As Enos Hitchcock said in his Fourth of July oration at Providence in 1788,

“If from a vile assemblage of vagrants and rogues the wisest and most virtuous nation that ever existed deduced its origin, under the wise constitution and laws of Romulus—what may not be expected from an enlightened, virtuous and heroic people, who have the advantage of the wisdom and experience, under a constitution formed by their free suffrages and the combined wisdom of all those who have gone before them? . . . . What glorious prospects open to view when we contemplate the scope given to the human mind for exertion—the extension of commerce—the progress of science, agriculture, manufactures, and all the pleasing and useful arts of refined society, which naturally flow from independence and a government as just in its principles and firm in its texture as it is free in its formation. . . . Behold the majesty of a free people, convened in awful simplicity to consult their safety and promote their happiness.”<sup>51</sup>

<sup>50</sup> *N. Y. Packet*, October 2, 1787. Nor had the shrewd feuilletonist of the time lost the opportunity of pointing out to the Americans the advantages to be derived from the influx of immigrants that must ensue on the consummation of the great undertaking for the advancement of civilization. “Private letters from Europe mention that the oppressed and persecuted in every country look with great eagerness to the United States in the present awful crisis of her affairs. Should the new federal government be adopted thousands would embark immediately for America. Holland would pour in, with her merchants, a large quantity of cash among us. Germany and Ireland would send us colonies of cultivators of the earth, while England and Scotland would fill our towns and cities with industrious mechanics and manufacturers.” (*N. Y. Daily Advertiser*, August 29, 1787).

<sup>51</sup> Enos Hitchcock, Oration, July 4, 1788, at the Request of the Inhabitants of Providence, 13-16.

Nor is it difficult to understand the awe and thrill of the people at the highly imaginative recital year after year of those proceedings which had been kept practically secret by the framers. Simeon Baldwin's oration at New Haven in 1788 assured his audience that,

"Revolutions in government have in general been the tumultuous exchange of one tyrant for another, or the elevation of a few aspiring nobles upon the ruins of a better system. Never before has the collected wisdom of any nation been permitted quietly to deliberate and determine upon the form of government best adapted to the genius, views and circumstances of the citizens. Never before have the people of any nation been permitted, candidly to examine and then deliberately adopt or reject the Constitution proposed. For a moment turn your attention to that venerable body—examine the characters of those illustrious sages, eminent for political wisdom and unsullied virtue—see them unfolding the volumes of antiquity, and carefully examining the various systems of government, which different nations have experienced, and judiciously extracting the excellence of each—listen to the irresistible reasons which they urge—mark the peculiar amity which distinguishes their debate—hear the mutual concessions of private interest to the general good, while they keep steadily in view the great object of their counsels, and then glory, Americans, in the singular unanimity of that illustrious assembly of patriots in the most finished form of government that ever blessed a nation."<sup>52</sup>

But Fourth of July orations were not the only opportunities for the beatification of the Constitution. The eulogies of national heroes were also panegyrics of their greatest creation. No one could underrate Washington's share in the establishment of the new government. The *New York Packet* had announced as early as October, 1787, that,

"George Washington, Esq., has already been destined by a thousand voices to fill the place of the first President of the United States, under the new form of government. While the

<sup>52</sup> Simeon Baldwin, Oration Pronounced before the Citizens of New Haven, July 4, 1788.

deliverers of a nation in other countries have hewn out a way to power with the sword, or seized upon it by stratagems and fraud, our illustrious Hero peaceably retired to his farm after the war, from whence it is expected he will be called, by the suffrages of three millions of people, to govern that country by his wisdom (agreeably to fixed laws) which he had previously made free by his arms. Can Europe boast such a man? Or can the history of the world show an instance of such a voluntary compact between the *deliverer* and the *delivered* of any country, as will probably soon take place in the United States.”<sup>53</sup>

In all these eulogies the Constitution shares the praise of its framers.

“The union of the country was in danger, and the evil was of too baneful a nature to admit of a partial or dilatory remedy. But how novel, how aspiring, was the hope of connecting, under one compact code of general jurisprudence, so many distinct sovereignties, each jealous of its independence, without impairing their respective authorities! The unbalanced bodies of the Confederacy had almost overcome the attracting power that restrained them; when the watchful guardian of his country’s interests, the heart-uniting Washington, appeared, the political magnet in the center of discord, and reconciled and consolidated the clashing particles of the system in an indissoluble union of government.”<sup>54</sup>

Nor was Hamilton’s death allowed to pass without many a tribute to the Constitution. In the popular mind Hamilton had been one of the main constructive forces at the convention, though in reality his radical pro-centralization had been, as Professor Farrand well says, “praised but unsupported.” According to a New York pastor,

“A prudent secrecy covers the transactions of that august assembly. But could the veil be drawn aside, you would hear the youth of thirty fascinating, with his eloquence, the collective wisdom of the States; and instructing the hoary patriot in the

<sup>53</sup> *N. Y. Packet*, October 2, 1787.

<sup>54</sup> Robert Treat Paine, Eulogy on Washington at . . . Newburyport, January 2, 1800, in *Eulogies and Orations on Washington*, 62-3.

recondite science of government. You would have observed all the emotions of his manly heart occupying, in turn, his expressive features; and see, through the window of his breast, every anxiety, every impulse, every thought, directed to your happiness. The result is in your hands: it is your national existence."<sup>55</sup>

We have thus far considered, somewhat fragmentarily, what we may call the personal, the political, the economic and the nationalistic elements in the creation of the tradition of the Constitution. Before concluding our survey we must point out the influence of two great factors in society which by their very nature are calculated to crystallize and preserve, to amplify and ramify a national tradition. Reference has already been made to the association of Jeffersonianism by its enemies with anarchy, atheism, jacobinism and heresy of every kind. But the Federalists had been strongly supported by the clergy in the struggle for ratification itself, long before the alliance between the anti-French elements in church and state. "A minister of the gospel, through the medium of our paper," says a Federalist organ, "begs leave to ask, whether men can be serious in regard to the Christian religion, who can object to a government that is calculated to promote the glory of God, by establishing peace, order and justice in our country—and whether it would not be better for such men to renounce the Christian name, and to enter into society with the Shawanese or Mohawk Indians than to attempt to retain the blessings of religion and civilization with their licentious ideas of government."<sup>56</sup> The same paper a few days later reported that "the ministers and Christians of all denominations are now engaged in praying for it, and there is good reason to believe that no prayers have as yet been offered up against it."<sup>57</sup> Nor was the injunction of an ancient sage, "Pray for the welfare of the government, since but for the fear thereof men would swallow each other alive," hearkened to by Christians only, for, in the grand federal procession in Philadelphia,

<sup>55</sup> J. M. Mason, Oration commemorative of Hamilton, N. Y., July 31, 1804, 8.

<sup>56</sup> *New Haven Gazette and Conn. Magazine*, October 12, 1787; *N. Y. Daily Advertiser*, October 20, 1787.

<sup>57</sup> *New Haven Gazette and Conn. Magazine*, October 18, 1787.

“the rabbi of the Jews locked in the arms of two ministers of the gospel was a delightful sight. There could not have been a more happy emblem contrived, of that section of the new Constitution, which opens all its powers and offices alike, not only to every sect of Christians but to worthy men of every religion.”<sup>58</sup>

A clergy fairly unanimously in favor of the new Constitution exerted a profound influence in the formation of a sentiment of devotion to the Constitution. The Methodist Conference that met in New York in May, 1789, congratulated Washington in terms that spoke of “the most excellent Constitution of these States, which is at present the admiration of the world, and may in future become its great exemplar for imitation.”<sup>59</sup> The election and other sermons of New England show how enthusiastically the church contributed to the worship of the Constitution, but it would be wearisome to quote them at length. Year after year it was preached that “behold, it hath pleased Him by whose special providence our empire was founded to unite a great people . . . in adopting a new Constitution in a manner unequalled by, nay without precedent among the nations of the earth.”<sup>60</sup> Many preachers in their Federalist zeal went even further than mere abstract laudation of the Constitution. “May I be permitted to enquire,” said Chandler Robbins in 1791, “can it be wise, can it be just, or politic to speak of our national government as a *foreign* jurisdiction? . . . as though the interests of the federal government and those of the States were separate, at least, if not opposed to each other; than which no idea can be harbored more dangerous to our peace, or more untrue. . . . Let us cautiously avoid every dangerous insinuation—every alarming expression, which can have no other effect than to . . . weaken our government, destroy the public confidence, and, in the end, sap the foundations of that fair structure, which under God, has been raised

<sup>58</sup> From the letter appended to Hopkinson’s *Account of the Grand Federal Procession*, July 4, 1788.

<sup>59</sup> E. S. Tipple, *The Heart of Asbury’s Journal*, 280.

<sup>60</sup> Ammi Robbins, Election Sermon, Conn., May 14, 1789. (Hartford, 1789).  
25.



by American wisdom and valor."<sup>61</sup> The Constitution was to the preachers a refuge in "the howling wilderness of an almost national anarchy, where were pits, scorpions and fiery flying serpents,"<sup>62</sup> its adoption was "declarative of the superintendence of God" and its operation was responsible not merely for the growth of religion, but for the new plantations, cities, bridges, canals, manufactories, colleges, seminaries, public libraries, and even a new school of scientists."<sup>63</sup>

That much of this clerical admiration of the Constitution degenerated into a rabid hatred of the later anti-Federalism and a shameless use of the pulpit for political purposes is admitted.<sup>64</sup> A clever Republican lampoonist declared that if Dr. Timothy Dwight "would advocate the cause of the Church militant as strenuously as he has done the cause of Federalism triumphant—we should have turnpike roads to the New Jerusalem all paved with jasper and gold. . . ."<sup>65</sup> But this aspect of the alliance between the forces of religion and the bitterest foes of Jefferson and his school does not concern us here. All that is relevant and significant in the present connection is that the clergy supported the Constitution as "the sanction of the liberties of the people" and the liberties of the Church, and in prayer and discourse they instilled into the people a sense of the intimate connection between divine government and constitutional progress and supremacy.

The lawyers were equally emphatic in their declarations of loyalty to the Constitution and equally influential in impressing the people with its significance and its promise. In the great federal processions it was always the gentlemen of the bar who

<sup>61</sup> Chandler Robbins, Election Sermon, Mass., May 25, 1791 (Boston, 1791), 46-7.

<sup>62</sup> John Smalley, Election Sermon, Conn., May 8, 1800 (Hartford, 1800), 35.

<sup>63</sup> See Nathaniel Emmons, Thanksgiving Day Sermon, Franklin, Mass., December 15, 1796, (Worcester, 1797,) 19-20.

<sup>64</sup> See A. E. Morse, *The Federalist Party in Mass. to the year 1800* (Princeton, 1909), 184-8 and appendix J for a valuable discussion of the political influence of the clergy in New England; also D. D. Addison, *The Clergy in American Life and Letters*, 181.

<sup>65</sup> *Federalism triumphant*, . . . A political farce in six acts, as performed at Hartford and New Haven, October, 1801 (1802), 7.

solemnly bore aloft amidst the throngs which Burke had called "a nation of lawyers," the new Constitution. It was not until the famous case of *Chisholm vs. Georgia* that the juristic theory of the Constitution as the work of the whole people was clearly enunciated. This conception, enabling or causing the courts to give so deep a significance to the words of the Preamble, "We, the people," and to ignore completely the fact that this phrasing was the fortuitous solution by the convention's committee on style of a problem in rhetoric, and not the premeditated statement of a political principle<sup>66</sup> was thus stated by Chief Justice Jay:

"In the hurry of war, and in the warmth of mutual confidence they made a confederation of the States the basis of a general government. Experience disappointed the expectations they had formed from it; and then the people in their collective and national capacity, established their present Constitution. It is remarkable that in establishing it, the people exercised their own rights, and their own proper sovereignty, and conscious of the plentitude of it, they declared with becoming dignity, "We, the *people* of the United States, do ordain and establish this Constitution."<sup>67</sup>

But it was not so much in judicial decisions that the lawyers exerted great influence in the molding of popular reverence for the Constitution. The juristic theory of the Constitution was after all the possession of only a very limited class in the community. If the lawyers to any special degree stimulated the *Volksgeist* to enthusiasm for the new instrument of government it was through their political activity and through those now almost obsolete non-technical charges to the grand juries that were the great feature of the sittings of a court at the end of the eighteenth century, in the days when the judges made a "public entry" into the towns, sometimes even "amidst the ringing of bells and the roar of cannon."<sup>68</sup> The federal judges, travelling on circuit from one end of the United States to the other, in

<sup>66</sup> See Farrand, *The Framing of the Constitution*, 190, 191.

<sup>67</sup> *Chisholm v. Georgia*, 2 Dallas, 470-71.

<sup>68</sup> Van Santvoord, *Lives of the Chief Justices* (N. Y., 1854), 48.

these charges preached what really amounted to awe-inspiring political sermons, often of the orthodox homiletical length, in which the Constitution, its uniqueness and its potentialities, were often the central theme. Chief Justice Jay, for instance, in his charges to the grand juries of New York, Connecticut, Massachusetts and New Hampshire in April and May, 1790, said:

"Providence has been pleased to bless the people of this country with more perfect opportunities of choosing and more effectual means of establishing than any other nation has hitherto enjoyed; and for the use we may make of these opportunities and of these means we shall be highly responsible to that Providence, as well as to mankind in general and to our own posterity in particular."<sup>69</sup>

Judge Iredell in his charge at Richmond in 1796 thus described the genesis of the Constitution:

"The voice of the Union disregarded—public debts not only unpaid but unprovided for; private as well as public credit at a very low ebb; commerce languishing; agriculture discouraged; measures of disunion every day adopting; an illiberal malignant jealousy taking place of rational and manly confidence, and the most melancholy symptoms prevailing for a speedy dissolution of the Union, or a disgraceful and ungovernable anarchy. The magnitude of the danger alarmed all considerate men, and by one of the greatest and most disinterested efforts ever made by public bodies, each making voluntary sacrifices to accomplish a magnanimous reformation, the present Constitution of the United States was formed and adopted."<sup>70</sup>

Nor were such charges confined to the federal courts alone. Washington wished sincerely that the "good example" of Judge Addison of the Pennsylvania court of common pleas "in endeavoring to bring the people of the United States more acquainted with the laws and principles of their government"<sup>71</sup> were followed by others. Judge Addison charged in 1791 as follows:

<sup>69</sup> Jay, *Corr. and Public Papers* (ed. Johnston), iii, 338.

<sup>70</sup> McCree, *Life and Corr. of James Iredell*, ii, 484.

<sup>71</sup> Addison, *Reports* (Washington, 1800), Appendix, iv.

“That a people, who have long subsisted in a national state, unassailed by calamity, should voluntarily sit down, and trace their progress from the first rudiments of society, dissolve every band that held them together, eradicate every prejudice, respectable from time and habit, and by the force of reason, enlightened by the speculation and experience of ages, establish a system of political freedom, is a spectacle reserved for the eighteenth century, reserved for America to set an example of to the nations of the earth, and worth the discovery of a new world to exhibit.”<sup>72</sup>

And later he went to the root of the matter:

“The laws and Constitution of our government ought to be regarded with reverence. Man must have an idol. And our political idol ought to be our Constitution and laws. They, like the ark of the covenant among the Jews, ought to be sacred from all profane touch.”<sup>73</sup>

And the grand jury usually responded that they were “convinced of the importance of the observations delivered in your charge, to men who have the happiness to live under a government of their choice,” and believing that “the publication of such a charge . . . will be highly beneficial to the citizens,” unanimously requested a copy of the charge for the public press, and within a very few days the newspapers brought the wisdom and political learning of the Constitution to the fire-side of every freeman for miles around.

At the end of a survey of the nature, the sources and the “transmission power” of the tradition of the Constitution we feel the wisdom of Anatole France’s remark, through the lips of the old Abbé Coignard, that “popular government, like monarchy, rests on fiction and lives by expedients. It suffices that the fiction be accepted and the expedient happy.” The fiction that the Constitution was the unanimous and deliberate political mandate of an inspired and all-inclusive democracy has been accepted by the people, and few will deny the happiness of the expedient. In the Federal Convention Nathaniel Gorham had asked, “Can it be supposed that this vast country including the

<sup>72</sup> Ibid., appendix 1.

<sup>73</sup> Ibid., appendix, 242.

western territory will 150 years hence remain one nation?"<sup>74</sup> If we as yet show no signs of dissolution, may we not attribute it in part to that first decade when the American people, their lawyers, their merchants, their clergy, their farmers, their procession-loving mechanics, their conservatives, their radicals, their democrats and their reactionaries, were all for one reason or another espousing the cause of that Constitution the ratification of which had been the subject of so bitter and in so many cases so narrow a conflict? It is this fact that Van Holst overlooks in that long chapter on the "canonization of the Constitution," with its rumblings and mutterings against the "national fetish," the "chronic constitutional scruples of the minority" and the "a priori convictions of the masses of the people." "If the original strength of the Constitution," says Mr. Coudert, "was at the outset its merits, its maintenance was owing to its having become the subject of a cherished tradition based on sentiment rather than reason."<sup>75</sup> What the bases of the tradition were we have tried to show here. But it must be agreed that it was the tradition that kept the Constitution no "mere lawyer's document," but in the words of President Wilson, "the vehicle of a nation's life."

<sup>74</sup> Farrand, *Records of the Federal Convention*, ii, 221.

<sup>75</sup> F. R. Coudert, *Certainty and Justice* (N. Y., 1913), 24-25.

#### ADDENDUM

In note (12) add: O. G. Libby, *Political Factions in Washington's Administration*. Quar. Jr. Univ. of N. Dakota, iii, 293.

To note (20) add: A. B. Hart, *National Ideals Historically Traced*, 144.

To note (22) add: Cf. O. G. Libby, *Early Political Parties in the United States*, Quar. Jr. Univ. of N. Dakota, ii, 216.

To note (54) add: "The people he has saved from external tyranny," said George Minot in Boston, "suffer from the agitations of their own unsettled powers. The tree of liberty, which he has planted and so carefully guarded from the storms now flourishes beyond its strength: its lofty excrescences threaten to tear its less extended roots from the earth, and to prostrate it fruitless on the plain. But, he comes! In convention he presides over councils, as in war he had led to battle. The Constitution, like the rainbow after the flood, appears to us now just emerging from an overwhelming commotion; and we know the truth of the pledge from the sanction of his name. The production was worthy of its authors, and of the magnanimous people whom it was intended to establish. You adopt it, you cherish it, and you resolve to transmit it, with the name of Washington, to the latest generation, who shall prove their just claim to such an illustrious descent." (George Richard Minot, *Eulogy on Gen. Washington*, Boston, Jan. 9, 1800, *ibid.*, 22-23.)